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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/487,000	03/07/2000	ULRICH BROCKEL	48320	7044

7590 01/29/2002

KEIL & WEINKAUF
1101 CONNECTICUT AVENUE NW
WASHINGTON, DC 20036

EXAMINER

PRATT, HELEN F

ART UNIT	PAPER NUMBER
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1761

18

DATE MAILED: 01/29/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

SW
Application No.

09/487,000

Applicant(s)

BROCKEL ET AL

Examiner

Helen F. Pratt

Art Unit

1761

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on 17 January 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☐ Claim(s) 1, 2, 4-19 and 21 is/are pending in the application.
- 4a) Of the above claim(s) 20 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) 1, 2, 4-19, 21 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- ☐ Interview Summary (PTO-413) Paper No(s) _____
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other:

DETAILED ACTION

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 2, 4-19 and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Van Ooijen (GB 0608975 A) or Gonthier et al. or Kotani et al.

The claims are rejected for the reasons of record cited in the last office action and for these further reasons. The claims have been amended to require particular acid salts and particular acids to impregnate the salts. However, the references disclose that it is known to impregnate carboxylic acids with acids in general. Nothing is seen in the specification of using particular acids except in reduction of the smell of the product (Examples). Van Ooijen in particular discloses the use of salts of acetic and propionic acid. The reference discloses that mixing fumaric acid and an acid salt removes problems of odor and corrosivity (page 2, ^{lines} ~~lines~~ 49-55). Gallic acid is disclosed as one acid which can be used and is within the claims (page 2, lines 45-49). Kotani et al. discloses using sorbic acid with potassium sorbate and it is disclosed that they have an irritating odor which is mitigated with glycerin or other additives (col. 1, ^{lines} ~~lines~~ 5-6, 55-70). Gonthier discloses using propionic acid and sodium propionate, (col. 1, ^{lines} ~~lines~~ 56-70). Particular amounts of 1-90% are disclosed by Van Ooijen on page 3, lines 10-15. Therefore, it would have been obvious to use the salts and acids as claimed as they are

disclosed specifically by Gonthier, and the principles of using the acids with salts disclosed by the other references.

ARGUMENTS

Applicant's arguments filed 1-17-02 have been fully considered but they are not persuasive. Applicants argue that the reference to van Ooijen requires salts of hydroxycarboxylic acids. This is not seen according to the reference, as it uses calcium fumarate and propionic acid and claims an acetate or a propionate salt of an alkaline metal salt and a carboxylic acid (page 5, lines 15-25).

The claims have been limited to particular acids and salts. However, the problem of odor is recognized in the art, and it is seen that little experimentation would have been required to choose particular acids and salts to eliminate such odors.

MISCELLANEOUS

Claim 20 has not been cancelled as a non-elected claim.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Helen F. Pratt whose telephone number is 703-308-1978. The examiner can normally be reached on Monday to Friday from 9:30 to 6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mr. Milton Cano, can be reached on (703) 308-3959. The fax phone number for the organization where this application or proceeding is assigned is 703-305-7718.

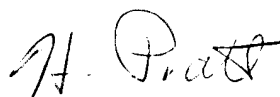
Application/Control Number: 09/487,000

Page 4

Art Unit: 1761

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0651.

Hp 1-27-02


HELEN PRATT
PRIMARY EXAMINER